I Do appoint *Benjamin Tooke* to Print these Proceedings, and Order that no other Person presume to Print the same.

Geo. Jefferys.

I Do appoint *Benjamin Tooke* to Print these Proceedings, and Order that no other Person presume to Print the same.

Geo. Jefferys.

THE ACCOUNT

Of the manner of

EXECUTING

A

Writ of Inquiry

OF

DAMAGES:

BETWEEN HIS.

ROYAL HIGHNESS JAMES Duke of York, &c.

AND

TITUS OTES.

Which was executed at the Bar of the Court of KINGS BENCH at WESTMINSTER, on *Wednesday* the 19th. of *June*, 1684. in the presence of the High Sheriff of *Middlesex*.

LONDON:

Printed for *Benj. Tooke* at the Ship in S. *Paul's* Church Yard, 1684.

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DAMAGES:

BETWEEN HIS

ROYAL HIGHNESS JAMES Duke of York, &c.

AND

TITUS OTES.

Die Mercurii 18. Junii, *An. Dom.* 1684. B. R.
Dux Ebor. *versus* Otes.

HIS Royal Highneſs the Duke of *York* having brought an Action againſt *Titus Otes*, grounded upon the Statute *de Scandalis Magnatum*, for very Slanderous and Opprobrious Words, the Defendant ſuffered Judgment to go againſt him by default, and thereupon a Writ of Inquiry was taken out, directed to the Sheriff of the County of

Middlesex to enquire by a Jury of that County, what Damages the Plaintiff had susteined hereby, and upon a Motion made at the Court of Kings Bench, a day was given to the Defendant to shew cause why that Writ of Inquiry should not be executed at the Bar of that Court, which he not doing, it was ordered that it should be executed at the Bar on this day, and that the High Sheriff should appear and attend the execution of the Writ in person. Accordingly this day, Sir *Peter Daniel* Knight, and *Samuel Dashwood*, Esquire, the present Sheriff of the County of *Middlesex*, came into this Court, and being placed at the Table at the Judges feet, were during the Execution of the Writ, covered. Mr. *Tho. Rous* the present Undersheriff managed it, and proceeded in this manner.

Mr. *Undersheriff.* Cryer, call Sr. *Charles Lee*.

Cryer. Vous avez Sr. *Charles Lee*.

Who was sworn thus,

Mr. *Undersheriff.* You shall well and truly enquire of Damages between the most illustrious Prince JAMES Duke of *York* and *Albany* Plaintiff, and *Titus Otes* Defendant, and therein a true Verdict give according to your Evidence. So help you God.

The rest were sworn thus,

Mr. *Undersheriff.* Sir *William Hill*, Sir *Richard Downton*, and Sir *John Berry*; the same Oath your Foreman hath for his part taken, you and every of you for your parts shall well and truly keep. So help you God.

Mr. *Undersheriff. Thomas Harriott*, *Thomas Row*, and *Walter Brydall*; the same Oath, &c. *Edward Guise*, *Thomas Done*, and *William Wood*; the same Oath, &c, *John Sharp*, and *Nehemiah Arnold*; the same Oath, &c.

Will you please to have any more than twelve sworn?

L. C. J. How many do you use to have? Pray swear an odd Number as you used to do.

Mr.

Mr. *Undersheriff.* Then I will swear three more, and that will be just fifteen.

Francis Stephens, *Nicolas Bagster*, and *John Kirk.* The same Oath, &c.

The Names of them that were upon the Inquiry.

Sir *Charles Lee*, Knight.
Sir *William Hill*, Knight.
Sir *Richard Downton*, Knight.
Sir *John Berry*, Knight.
Thomas Harryot, Esquire.
Thomas Rowe, Esquire.
Walter Brydal, Esquire,
Edward Guise, Esquire.
Thomas Done, Esquire.
William Wood, Esquire.
John Sharpe, Esquire.
Nehemiah Arnold, Esquire.
Francis Stevens, Esquire.
Nicolas Baxter, Esquire.
John Kirke, Gentleman.

Mr. *Undersheriff.* Gentlemen you that are sworn hear the Kings Writ.

L. C. J. Ay, read it to them.

Mr. *Undersheriff.* CHARLES the Second by the Grace of 'God, of *England*, *Scotland*, *France* and *Ireland* King, Defen-'der of the Faith, *&c.* to the Sheriff of *Middlesex* Greeting; 'Whereas the most Illustrious Prince JAMES Duke of 'York and *Albany*, one of the Nobles and Peers of *England*, 'our most dear and only Brother, who as well *&c.* 'lately in our Court before Us at *Westminster* by Bill with-'out our Writ impleaded *Titus Otes*, then in the Cu-'stody of the Marshal of our Marshalsea, before us be-'ing: For that whereas in a Statute made in the Par-'liament of *Richard* the Second, late King of *England*

'after

'after the Conqueſt, held at *Glouceſter* in the Second Year 'of his Reign, amongſt other things. It is ordained and 'ſtrictly prohibited, *that from thence none ſhould be ſo hardy 'to deviſe, tell or relate of the Prelates, Dukes, Earls, Barons 'and other Nobles and great Men of* England, *nor of the 'Chancellor, Treaſurer, or Clerk of the Privy Seal, Steward 'of the King's Houſhold, Juſtices of the one or of the other 'Bench, nor of other great Officers of the Kingdom aforeſaid, 'any falſe News, Lyes, or any ſuch falſe things, whereby Scandal 'or Diſcord within the ſaid Kingdom might ariſe*; and whoſo- 'ever ſhould do this, ſhould incur and have the Penalty 'otherwiſe thereon ordained by the Statute of *Weſtminſter* 'the firſt, as in the Statute aforeſaid is more fully con- 'tained. And whereas the fourth day of *December* in the 'Five and Thirtieth Year of our Reign, and long before 'the yearly Rents, Iſſues and Profits ariſing, or due and 'payable for or by reaſon of the General Poſt-Office with- 'in this Kingdom of *England*, for the carriage of Letters, 'before were erected and yet are eſtabliſhed upon the 'ſaid moſt Illuſtrious Prince JAMES Duke of *York* 'and *Albany*. The aforeſaid *Titus Otes* the Statute afore- 'ſaid not conſidering, but the good Name, State, Credit, 'Dignity, and Honour of the ſaid JAMES Duke of 'York and *Albany*, our Brother, deviſing and malitiouſly in- 'tending to hurt and detract and Him the ſaid JAMES 'Duke of *York* and *Albany*, our Brother, into the great diſ- 'pleaſure and hatred of Us and of the Peers of this King- 'dom of *England*, and alſo divers other venerable Perſons 'our Subjects, to bring out his meer Malice and Envy had 'and forethought the aforeſaid fourth day of *December*, in 'the Year of our Reign the five and Thirtieth, at the Pariſh 'of S. *Martin* in the Fields in the County of *Middleſex* afore- 'ſaid, upon a certain diſcourſe then had aed moved by and 'between the aforeſaid *Titus Otes* and divers of our Leige 'People, of and concerning the aforeſaid JAMES Duke 'of *York* and *Albany*, our Brother, and of and concerning a 'certain Letter in the hand of the aforeſaid *Titus Otes* at 'that time, being divers falſe News and horrible Lyes of 'the aforeſaid JAMES Duke of *York* and *Albany*, our

'Brother,

'Brother at that time, and yet being of the Peers and 'Nobles of this Kingdom, in the presence and hearing 'of divers venerable Persons, publickly, falsly, ma-'liciously, and scandalously said and related, and with a 'loud voice published in these English words following, 'viz. *This Letter* (the Letter aforesaid, so in the hands 'of the afore-said *Titus Otes* as is beforesaid being, mean-'ing) *cost me* (the said *Titus Otes* meaning) *ninepence*, 'and might have been brought for a peny, I (himself the a-'foresaid *Titus Otes* meaning) *know no body is the better for* 'it, but that Traitor JAMES *Duke of* York (the afore-'said JAMES Duke of *York* and *Albany* our only Bro-'ther meaning) And the aforesaid *Titus* further devising 'and maliciously intending the aforesaid JAMES 'Duke of *York* and *Albany* our Brother into the hatred 'of us, and of the Peers of this Kingdom of *England*, and 'also of divers other venerable Persons, and our Sub-'jects to bring; out of his meer malice and envy, had 'and forethought, the fourth day of *December* the year 'abovesaid, at the Parish of S. *Martin* in the Fields a-'foresaid, in the County of *Middlesex* aforesaid, upon a 'certain other discourse then had and moved by and 'between the aforesaid *Titus Otes* and several of our 'Liege People, of and concerning the aforesaid JAMES 'Duke of *York* and *Albany*, our Brother, and of and 'concerning a certain Letter in the hands of the afore-'said *Titus Otes* at that time being, divers other false 'News and horrible Lies of the aforesaid JAMES 'Duke of *York* and *Albany*, our Brother at that time, 'and yet being one of the Nobles and Peers of this 'Kingdom of *England*, and our only Brother, in the 'presence and hearing of several venerable Persons, pub-'lickly, falsly, maliciously and scandalously said, related 'and with a loud voice published, *viz. This Letter* (the 'aforesaid Letter so in the hands of the aforesaid *Titus* 'Otes, as is before said being meaning) *cost me* (the a-'foresaid *Titus Otes* meaning) *nine pence, and might have* 'been afforded for a Penny, I (himself the aforesaid *Titus* 'Otes meaning) *know no body is the better for it, but that*

'*Traitor* JAMES *Duke of* York (the aforeſaid JAMES 'Duke of *York* our only Brother meaning) And after- 'wards, to wit, the fifth day of *December* in the thirty 'fifth Year aboveſaid, the aforeſaid *Titus Otes* further 'deviſing and maliciouſly intending the ſaid JAMES 'Duke of *York* and *Albany* our Brother to ſcandalize, 'and into the further diſpleaſure and hatred of us, and 'of the Great Men of this Kingdom of *England*, out of 'his meer malice and envy, had and forethought, at 'the Pariſh of *S. Martin* in the Fields aforeſaid, in the 'County of *Middleſex* aforeſaid, the ſaid fifth day of '*December*, in the Year aboveſaid, upon certain other 'Diſcourſe of the ſaid JAMES Duke of *York* and '*Albany*, divers falſe News and horrible Lyes of the a- 'foreſaid JAMES Duke of *York* and *Albany*, publick- 'ly, falſly, and maliciouſly ſaid, related, and with a 'loud voice publiſhed, to wit, that the Letter in the 'hands of the aforeſaid *Titus* at that time being, coſt 'him the aforeſaid *Titus* nine pence, but might have 'been brought for one penny, and that he knew *no* '*body to be the better for it but that Traitor* JAMES '*Duke of* York. And the aforeſaid *Titus Otes* further 'contriving and maliciouſly intending the aforeſaid 'JAMES Duke of *York* and *Albany*, our only Brother, 'into the further diſpleaſure and hatred of us, and of 'the Great Men of this Kingdom of *England*, and al- 'ſo of divers other venerable Perſons, and our Sub- 'jects, to bring out of his meer malice and envy, had 'and forethought the ſixth day of *December*, in the five 'and Thirtieth Year aboveſaid, at the Pariſh of *S. Martin* 'in the Fields aforeſaid, in the County of *Middleſex* a- 'foreſaid, upon a certain diſcourſe at that time had and 'moved by and between the aforeſaid *Titus Otes* and ſe- 'veral of our leige People, of and concerning the a- 'foreſaid JAMES Duke of *York* and *Albany*, our Bro- 'ther, divers other falſe News and horrible Lyes of 'the aforeſaid JAMES Duke our only Brother, at that 'time, and yet being one of the Nobles and Peers of 'this Kingdom of *Emgland*, in the preſence and hear-

'ing

'ing of divers venerable Perſons, publickly, falſly, ma-
'liciouſly and ſcandalouſly ſaid, related, and with a
'loud voice publiſhed in theſe engliſh words follow-
'ing, to wit, *The Duke of* York (the aforeſaid JAMES
'Duke of *York* and *Albany* our only Brother meaning)
'*is a Traitor.* And the aforeſaid *Titus Otes* further con-
'triving, and maliciouſly intending the ſaid JAMES
'Duke of *York* our Brother, into the hatred of us, and
'of the great Men of this Kingdom of *England*, and
'alſo of divers other venerable Perſons, and our Sub-
'jects, to bring out of his meer malice and envy, had
'and forethought the aforeſaid Sixth day of *December*
'the Year aboveſaid, at the Pariſh of S. *Martin* in the
'Fields, in the County of *Middleſex* aforeſaid, upon cer-
'tain other diſcourſe at that time had and moved by
'and between the aforeſaid *Titus Otes* and divers of our
'liege People, of and concerning the aforeſaid JAMES
'Duke of *York* and *Albany* our only Brother, divers
'other falſe News and horrible Lyes of the afore-
'ſaid JAMES Duke of *York* and *Albany* our only Bro-
'ther, and at that time and yet being one of the Nobles
'and Peers of this Kingdom of *England*, in the preſence
'and hearing of divers venerable Perſons, publickly,
'falſly, and maliciouſly ſaid, related, and with a loud
'voice publiſhed; to wit, *That the ſaid Duke of* York
'*was a Traitor.* By reaſon whereof the ſaid JAMES
'Duke of *York* and *Albany* our only Brother, in his Re-
'putation, Honor and Dignity is very much hurt and
'ſcandalized. And the ſaid JAMES Duke of *York*
'and *Albany*, the Grace, good Opinion and Eſteem which
'we and others the great Men of this Kingdom of *En-*
'*gland* before towards him JAMES Duke of *York* and
'*Albany* did bear, utterly loſt, and divers Rumors and
'Scandals between very many Nobles and Peers of
'this Kingdom of *England*, and other our Subjects, by
'the occaſions aforeſaid, within this Kingdom of *En-*
'*gland*, are ariſen and divulged, and great Scandals and
'Diſcords by occaſion of the Premiſes between him
'the aforeſaid JAMES Duke of *York* and *Albany*, and

'divers

'divers Nobles and great Men, and other Subjects of 'this Kingdom of *England* are ariſen; and daily more 'and more in the like may ariſe, to the great diſtur- 'bance of the Peace and publick Tranquillity of this 'Kingdom of *England*, and in contempt of us and our 'Government of this Kingdom of *England*, and to the 'great Scandal and Grievance of him JAMES Duke 'of *York* and *Albany*, to the Damage of him the ſaid 'JAMES Duke of *York* and *Albany*, our moſt dear Bro- 'ther, a hundred Thouſand pounds: As he then ſaid, and 'thereupon in our Court before us it was ſo proceeded, 'That the aforeſaid JAMES Duke of *York* and *Albany* 'our only Brother his damages againſt the ſaid *Titus* '*Otes* by occaſion of the Premiſſes ought to recover: 'but becauſe it is not known to our Court before us, 'what damages the aforeſaid JAMES Duke of *York* 'and *Albany* our Brother hath ſuſteined, as well by oc- 'caſion of the Premiſſes, as for his coſts and charges 'by him about his Suit in this behalf expended. There- 'fore We command you, that by the Oaths of good 'and lawful Men of your Bailiwick, you diligently en- 'quire what Damages the aforeſaid JAMES Duke of 'York and *Albany* hath ſuſteined, as well by occaſion of 'the Premiſſes, as for his coſts and charges, by him 'about his Suit in this behalf expended, and the Inqui- 'ſition which thereupon you ſhall take, you ſhall have 'before Us at *Weſtminſter* on *Wedneſday* next after three 'Weeks of the Holy Trinity, under your Seal and the 'Seals of them by whoſe Oath you take that Inquiſition, 'diſtinctly and openly you ſend, and this Writ. *Teſte* 'Sr. *George Jefferys*, Knight and Baronet, at *Weſtminſter* 'the Thirtieth day of *May*, in the Year of our Reign 'the Six and Thirtieth. *Ri. Swift.* *Henley.*

You

You are to enquire what Damages his ROYAL HIGHNESS the Plaintiff has ſuſtain'd, by means of the Premiſſes; As alſo, what Coſts he has been at in this Suit.

Mr. Hanſes. May it pleaſe your Lordſhip, you Mr. Sheriffs, and Gentlemen of the Jury, His Royal Highneſs the Duke of YORK is Plaintiff, and Titus Otes is the Defendant; And this is in an Action of Treſpaſs and Contempt, grounded upon the Statute of *SCANDALUM MAGNATUM*, wherein his Royal Highneſs ſets forth, That whereas ſuch a Statute was made, prohibiting the Slandering the Great Men and Peers of the Kingdom, and the Plaintiff being the KING's Onely Brother, and a Peer, the Defendant upon a Diſcourſe between him the Defendant and ſome other Perſons, about a Letter that the Defendant had then in his Hands, Publickly, Falſly, and with an intent to ſcandalize the Plaintiff, ſpoke theſe *Engliſh* words:

This Letter (meaning the Letter then in the Defendant's Hands) *coſt Me* (meaning the Defendant) *Nine-pence, and might have been brought for a Penny; I* (meaning the Defendant) *know no Body is the better for it, but that Traytor* JAMES *Duke of* YORK, meaning the Plaintiff.

Gentlemen, This is not all, the Declaration goes on further, and ſays, That the Defendant intending further to ſcandalize the Plaintiff, the Sixth of *December* in the Thirty fifth Year of this King, upon a Diſcourſe had and moved by and between him the Defendant and ſome other Perſons, in the preſence of divers venerable Perſons, ſaid theſe words of the Plaintiff:

The Duke of YORK (meaning the Plaintiff) *is a Traytor*; And this is laid to the Plaintiff's damage of One hundred thouſand Pounds: The Defendant has not pleaded, and the Plaintiff has ſigned his Judgment; and now you, Gentlemen, are to enquire of the Damages.

Mr. Att. Gen. You obſerve, Gentlemen, the Words are acknowledged by the Defendant's default, and not pleading; ſo that they were ſpoken, is owned by him, and you are to enquire only of the Damages: And, I think, there will need nothing to be ſaid for the Aggravation of them, they are Words of the higheſt Nature, in reſpect of Slander and Scandal, that can be ſpoken or thought of, Accuſing Him of Treaſon. We ſhall only call you ſome Witneſſes to prove this way of Diſcourſe to be his conſtant habit in all places, and among all perſons and Company, inveighing againſt the Government, and particularly againſt his Royal Highneſs the Plaintiff; and then you will, I know, give ſuch Damages, as may be fit to repair the Plaintiff's Honour.

Mr. Sol. Gen. We will call ſome Witneſſes, to give you an Account how he uſes to treat the Plaintiff in all Companies, and we ſhall begin with Mr. *Smith.* And the truth is, the proving of the Words, will demonſtrate the Malice of them; and the Manner and Circumſtances of ſpeaking, will make them appear to be ſuch, as need nothing to be ſaid for their Aggravation at all: Swear Mr. *James Smith.*

Mr. Under-Sheriff. *The Evidence that you ſhall give to the Sheriffs and the Jury ſworn about the Matter in Queſtion, ſhall be the Truth, the whole Truth, and nothing but the Truth.*

Mr. Sol. Gen. Mr. *Smith*, pray will you tell the Court and the Jury, what you have heard the Defendant *Otes* ſay of his Royal Highneſs.

Mr. Smith. At the laſt *Weſtminſter* Parliament, as I was ſitting in a Coffee-houſe, I ſaw Mr. *Otes*, he had a Letter in his hand, and he ſaid, *This Letter coſt me Nine-pence, it might have been brought for a Penny; I know no Body that is the better for it but a Traytor*, to the beſt of my remembrance he ſaid, *the Duke of* York.

Mr. Att.

Mr. Att. Gen. Swear Mr. *Penniſton Whaley* (which was done) what Words did you hear Mr. *Otes* ſay of his Royal Highneſs?

Mr. Whaley. The time was either the *Eaſter* or *Whitſontide* after Sir *Thomas Gaſcoigne*'s Tryal.

Mr. Sol. Gen. What were the Words you then heard him ſay?

Mr. Whaley. It was at the Biſhop of *Ely*'s Table at *Ely* Houſe. I had received the Sacrament at the Chappel there that day, and ſo had the Doctor too; it was upon *Eaſter*-day or *Whitſunday*, I ſuppoſe, becauſe I never uſed to receive the Sacrament here in Town but one of thoſe two times; and Dr. *Otes* and I were ſitting there, and ſome Diſcourſe happened about Sir *Thomas Gaſcoigne*'s Tryal, and he fell very foul upon the Jury, and ſaid, *They were a Company of profligate Villains* (or ſome ſuch expreſſion as he was wont to uſe) and ſaid, *He would have them Attainted.* Then ſaid I to him, Doctor, you are a good Man at a matter of Fact, but, I doubt, you are not ſo at a matter of Law. Upon that, we came to ſome high Words about that and other things, and, among the reſt of the Diſcourſe, he ſaid, *The Duke of* YORK *was a Traytor.* Upon that, I ſaid to him, Doctor, you lie under a great Error in that, I ſuppoſe, by miſtaking a Statute made againſt Popery; ſays he, *No matter for that, I ſay he is a Traytor.* Then there were ſome other Diſcourſes happened afterwards, and I began to reply, and growing both of us pretty warm, the Doctor called to his two Men, his Mirmydons, that uſed to be always with him, and follow him up and down: ſaid I to him, Nay, Doctor, you need not call your Men to your Aſſiſtance, there is no Body here will hurt you: Do you think the Biſhop of *Ely*'s Table is not a Protection good enough for any Body that comes here?

Lord Chief Juſtice. Where was this Sir, pray do you ſay.

Mr. Whaley. At the Biſhop of *Ely*'s Table.

Lord Chief Juſtice. Was the Biſhop there then?

Mr. Whaley.

Mr. Whaley. He was at the Table, but at a great diſtance from us, the Doctor and I ſate at the lower end of the Table. Afterwards I begg'd the Biſhop of *Ely's* pardon, for being ſo hot and loud at his Table; ſays the Biſhop to me, *I thank you kindly for it, none of us dare talk with him.*

Lord Chief Juſtice. And this you ſay was at Dinner, after the Sacrament was over.

Mr. Whaley. Yes, it was ſo.

Mr. North. Then ſweat *Edward Johnſon* (which was done.)

Mr. Att. Gen. Mr. *Johnſon*, pray will you give the Court and Jury an account what Diſcourſe you have heard from the Defendant, Mr. *Otes*, againſt the Plaintiff.

Mr. Johnſon. Upon the Three and twentieth of *Auguſt*, 1680. I met Dr. *Otes*, and ſaid, Good morrow Doctor, all things will go well now ----

Lord Chief Juſtice. You mean him they call Dr. *Otes*, I ſuppoſe.

Mr. Johnſon. Yes, they uſed to call him ſo; ſaid I, Good morrow Doctor, all things will go well now, for there is a Parliament to meet in a little time. *No*, ſaid he, *not till* YORK *is either Baniſhed or Hanged; but of the two, Hanging is the fitteſt for him.* Said I, do not talk ſo Doctor: Says he, *I ſpeak nothing but what is true; he has a good Brother, but he takes all the courſes in the world to undo Him:* And then the Doctor and my Lord *Howard* went away together.

Mr. Sol. Gen. Swear *Randall Bowring* (which was done.) What have you heard Mr. *Otes* ſay of the Duke of *YORK?*

Mr. Bowring. About the middle of *October*, 1679. there were ſeveral perſons at Dinner with the Doctor.

Lord Chief Juſtice. What Doctor, prithee?

Mr. Bowring. Mr. *Otes.*

Lord Chief Juſtice. Mr. *Otes* we know very well, but we do not ſo well know who this Doctor is.

Mr. Bowring. They uſed to call him Doctor, or I ſhould not have taken upon me to give him the Title.

Lord

Lord Chief Juſtice. Well, go on: There were ſeveral perſons at Dinner with him, and what then?

Mr. Bowring. There happened ſome diſcourſe concerning his Royal Highneſs.

Lord Chief Juſtice. Where was this?

Mr. Bowring. At his Lodgings at *Whitehall*: And a Gentleman that was there, ſaid, In caſe his Royal Highneſs were a Papiſt, how ſhould we be ſecured that in caſe he come to the Succeſſion of the Crown, he would not bring in Popery among us? Then the Doctor replied, *I would not have you trouble your ſelf about that, for he ſhall be hanged before that time.*

Mr. Att. Gen. What have you heard him ſay any where elſe, at *Foſter-lane*, or any other place?

Mr. Bowring. After the Sermon he had preached there at *Foſter-lane* Church, the Church-wardens, and ſome of the Pariſh, invited him into the Veſtry to drink a Glaſs of Wine.

Lord Chief Juſtice. What? he made as if he would preach there?

Mr. Bowring. He did preach there, and then the Church-wardens invited him to Dinner; but then he asked them, *If ever any of them had dined with* JAMES *Duke of* YORK *at any of the Feaſts of the City where the Duke uſed to come ſometimes?* To which they none of them anſwering a word, he replied, *He would not dine with any Man that had eat with the Devil*: And ſo would not go to dine with them, but went and dined at a private Braſiers by *London-wall.*

Lord Chief Juſtice. An excellent Goſpel-Preacher upon my word.

Mr. Att. Gen. What Braſier was that?

Mr. Bowring. Truly I do not well know his Name.

Mr. Att. Gen. Where did he live?

Mr. Bowring. By *London-wall.*

Mr. Sol. Gen. Then ſwear Mr. *Fairfax.*

(*Which was done.*)

Pray, Sir, tell my Lord and the Jury, what Words you have heard this Man ſpeak of his ROYAL HIGHNESS.

Mr. Fairfax. May it please your Lordship, in *August* 1679. I happened to come into the Company of *Otes* the Defendant, upon the account of an Election that was to be of Parliament-men for *Grinstead* in *Sussex*, by the means of one *Aukland*; *Otes* was to go down thither in my Lord *Wharton's* Coach, and then we came first to be acquainted, and afterwards we frequently did eat together, and became very well acquainted. And in my Lord *Scrogg's* time, when he was Chief Justice, there was some Presentment intended to be brought in by the Grand Jury here at the Term, against his Royal Highness for being a Papist, and not coming to Church, and this *Otes* was the main Prosecutor of it. He was used often to come up to me, and speak to me when he met me; and I was about that time walking in the Court that was built up here for the Tryal of the Lords in the Tower, it was after that Grand Jury were dismissed, which was done a day or two before they used to be dismist in the ordinary course, and walking there I met *Otes*, and said I to him, Doctor, Now you are Non-suited, what will you do now? *Oh*, says he, *we will do well enough; there will be a Sessions after the Term, and there we will at him again; and we will have no more regard for him, than if he were a Scavenger of* Kent-street: And upon that he was called away from me, and he went away.

Mr. Sol. Gen. Swear Mr. *Philips.*

(*Which was done.*)

Mr. Att. Gen. Come, Mr. *Philips*, will you acquaint my Lord and the Jury, what you have heard *Otes* say of the Duke of *YORK*?

Mr. Philips. In or about *January* (78.) may it please your Lordship, I was in the company of one *Deacon* at *Otes's* Lodgings at *Whitehall*, where Mr. *Otes* said, *He hoped to see your or our Master* JAMES (meaning the Duke of *YORK* his Royal Highness I suppose) *at the Bar of the House*

House of Commons; and it would be no disparagement to him to appear there, for there were better men Members of that House than he was.

Lord Chief Justice. Pray what was the occasion of this Discourse?

Mr. Philips. Truly it was a Discourse of his own; he ran it on, we talked but little to him.

Lord Chief Justice. Who did he apply himself to in that Discourse?

Mr. Philips. To us two, Mr. *Deacon* and I.

Lord Chief Justice. How came he to mention your Master *JAMES*, had you any relation to the Service of his Royal Highness?

Mr. Philips. No, my Lord, we had not; but he said either our Master, or your Master: he run on in such kind of Discourse as he used to do.

Lord Chief Justice. But do you think he intended his Royal Highness, when he named your Master *JAMES*?

Mr. Philips. I could not imagine he did mean any Body else.

Mr. Att. Gen. Then swear *William Ashlock*.

(*Which was done.*)

Pray will you acquaint my Lord and the Jury, what words you have heard him speak of his ROYAL HIGHNESS.

Mr. Ashlock. May it please your Lordship, in *Easter* Term, 1682. Dr. *Otes*.

Mr. Att. Gen. Mr. *Otes* you mean.

Mr. Ashlock. Mr. *Otes* went out one morning with *Dolben* and *Robin Nichols*, two of his men, from his Lodgings at *Whitehall*, and while he was dressing, he said he went out in order to draw up a Bill of Indictment against the Duke of *YORK*; but he did not do it, because he was otherwise advised by some persons, as I heard. Then at *Michaelmas*, 1682. when he was going to dress him, I held the Bason to him to wash, as he commonly had two or three every day to wait upon him to dress him, there came

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in a Gentleman that came newly out of *Suſſex*, I cannot remember his Name: He asked him how all Friends did in *Suſſex*, and then fell a talking about the Election of Sheriffs, and abuſing them that were then choſen, and reflected very much upon Sir *John Moor*, and called him Rogue, and ſaid he deſerved to be hang'd up as an Example. And afterwards, he ſaid the City of *London* was fired by the Duke of *YORK*'s Order, and Sir *Thomas Bludworth* had a hand in it; and the Forces at *Black-Heath* were to have plunder'd the City, and killed all the honeſt Proteſtant Diſſenters in *London*: And this he would prove, if ever they had a Parliament to their mind that ſhould ſit. At another time there was one *Starkey*, *Henry Starkey* that was concerned in *Colledge*'s buſineſs at *Oxford*, and one Mr. *Paſchall*, and, I think, Capt. *Clare*, and ſome others that uſed to keep him Company, and Mr. *Otes* ſtep'd up on a ſudden, and ſaid, *The Duke of* YORK *was a Son of a Whore, and he ſhould live to ſee him hanged; and if they could but get a Parliament to their mind, they would ſoon ſend the Duke and all his Gang out of* England, *for he muſt never expect to ſucceed to the Crown.*

Mr. Sol. Gen. Pray who did he ſay was to head the Forces at *Black-Heath* that you talk of were to plunder the City?

Mr. Aſhlock. *The Duke of* YORK, *and* London *was fired by his Order; and this he would prove, if they could but get a Parliament to their mind*: And he ſaid, *They ſhould take away the Poſt-Office from the Duke of* YORK, *and give it to the Duke of* Monmouth.

Mr. Sol. Gen. Then call Capt. *Creſſet*, and ſwear him.

(*Which was done.*)

Mr. Att. Gen. Capt. *Creſſet*, Pray do you remember what Diſcourſe you had with *Otes*, when the Duke went into *Flanders*, what he ſaid of his Royal Highneſs?

Capt.

Capt. Creſſet. It was the laſt time the Duke went into *Scotland* with her Royal Highneſs, I think it was in *October* 1680. I was commanded over Night to wait at the Duke's Lodgings, till a Paper ſhould be delivered me by my Lord *Rocheſter*; I ſtay'd there till Twelve a Clock at Night, and not ſeeing my Lord come out, I went away, and came early the next Morning. And when the Duke and Dutcheſs went to take water at the *Privy-Stairs*, I came down through the Guard-Chamber, and Dr. *Otes* was in the Gallery that leads betwixt that and the Gate; when he ſaw me, I bid him, Good Morrow Doctor, or he bid me, Good Morrow; one of the two, I cannot exactly tell which: Says he to me, *You will never leave, till you have loſt your Reputation.* Why, what is the matter now, Doctor, ſaid I, I hope my Reputation is not hung upon ſo ſlender a Thread, as to be loſt for my going any where? Says he, *You have been with* JAMES: Who do you mean by *JAMES*, ſaid I? *YORK*, ſays he. Surely, ſaid I, it might have been the Duke of *YORK*, or his Royal Highneſs: *No*, ſaid he, *he is a Raſcal, a Papiſt, and a Traytor, and I hope to live to ſee him hanged.* Truly Doctor, ſaid I, now let me give you a little advice to govern your Tongue and your Paſſions, I aſſure you they will do neither you nor your Cauſe good; it may do you a great deal of hurt in time, if you do not take care.

Mr. Sol. Gen. Call Sir *William Jennings.*

Mr. Att. Gen. Truly, my Lord, I think we need call no more, though we have multitudes of them, it is his daily Diſcourſe.

Lord Chief Juſtice. Call whom you will *Mr. Attorney*; for though it be the laſt day of the Term, and it is an unuſual thing to have a Jury at the Bar on that day, and more unuſual to have them to execute a *Writ of Enquiry* here, yet in regard of the Greatneſs of the Perſon that is concerned, and the extraordinary Nature of the Cauſe, We have ordered it thus, *That all the World may ſee how his ROYAL HIGHNESS has been abuſed and ſcandalized by this Perſon.*

Mr. Att. Gen. The Defendant, my Lord, has been a perſon pretty much talk'd of too.

Lord Chief Juſtice. Yes, truly it is done with regard to him too; for he has been an eminent Man *in his Way*.

Mr. Sol. Gen. Then ſwear Sir *William Jennings*.

(*Which was done.*)

Mr. Att. Gen. Now, Sir *William Jennings*, ſpeak out, you hear the Queſtion, What have you heard *Otes* ſay of the Duke of *YORK*?

Sir William Jennings. My Lord, at the time of the Sitting of the Parliament at *Oxford*, I was in a Tavern there with Mr. *Cranfeild*, one of the King's Gentlemen-Uſhers, who ſeeing Mr. *Otes* going along by the Room, invites him to drink a Glaſs of Wine, there were a matter of ſome Eight or Nine at the Table; there was a little partition Curtain, it being a long Room, and there was ſome Company beyond that Curtain, and ſome Body in that Company named *JAMES* Duke of *YORK*, and the KING's Health being drunk at our Table, Mr. *Cranfeild* began a Health to the DUKE: Says Mr. *Otes*, *Do not you drink* YORK's *Health.* Why ſhould we not, ſays Mr. *Cranfield*, and a Gentleman or two more in the Company: *Why*, ſays he, *he has ruined the Nation; and if the Devil has a place in Hell more hot than others, I hope he will beſtow it upon him.* Several words paſt between Mr. *Cranfeild* and him upon it, and the KING was told of it preſently.

Mr. Att. Gen. Swear Juſtice *Warcup*.

(*Which was done.*)

Pray tell what you know of this Man's diſcourſing concerning the Duke.

Mr. War-

Mr. Warcup. My Lord, I went into the Company where Sir *William Jennings* was that he ſpoke laſt of, and being deſired to drink a Glaſs of Wine with them, I did ſo, and they told me what Dr. *Otes* had ſaid there.

Lord Chief Juſtice. Mr. *Otes*, *Titus Otes* you mean.

Mr. Warcup. Yes, my Lord, the Room had a Partition by a Hanging or Curtain, and I was firſt in the other Company beyond the Partition, and there ſome Body began a Health to his Royal Highneſs the Duke of YORK; this Health went round, and *Otes* was, it ſeems, in the next Room, and heard this Health I ſuppoſe: when I came into Sir *William Jennings* Company, *Otes* was gone; the Company there told me what *Otes* had ſaid, as Sir *William Jennings* has declared, they all agreed thoſe to be the words, *That he had ruined or betray'd the Nation; and if the Devil had a hotter place in Hell than other, he hoped he would beſtow it upon him.* I met *Otes* afterwards, and asked him why he would ſpeak ſuch irreverent words of the DUKE? His Anſwer was, *He was a Traytor, and was in the Plot*; and he told me, *I was a* Yorkiſt, *and he would remember me for it.*

Mr. Att. Gen. Did not that affright you, Mr. *Warcup*, to have him threaten you ſo?

Mr. Warcup. I had then an Impeachment againſt me, and truly I think I might well be afraid.

Lord Chief Juſtice. You ſay he owned the Words they told you of.

Mr. Warcup. They did all agree thoſe to be the Words; and I met him afterwards, and asked him why he would ſpeak ſo Irreverently of the Duke, conſidering he was the King's Brother, and as virtuous a Prince as trod upon the Earth: Says he, *He is a Traytor, and in the Plot; and you are a* Yorkiſt, *and I will remember you for it.*

Mr. Sol. Gen. We ſhall only call one more, to ſhew in what mind he continues to be, even ſince this Action brought. Swear Mr. *Charles Chapman.*

(Which was done.)

Pray, Sir, Tell what you know.

Mr. Chap-

Mr. Chapman. My Lord, I met Mr. *Swift*, the Duke of *YORK*'s Attorney, when he was going over, as he told me, to demand a *Plea* of the Defendant Mr. *Otes*, and he desired me to go along with him, I did so; and when we came to him, Mr. *Swift* told *Otes* the Rules were out, and desired to know what he intended to do, whether he would plead or no. *Otes* asked him, *If he were the Duke's Attorney?* He answered him, Yes: Says he, *I do not value the Duke, nor his Attorney neither, I will plead as I shall see cause according to Law; I declare I neither love the Duke, nor fear him:* And so turned his back, and was going away, and comes up again, and says to him, *It may be I may be in for One hundred thousand Pounds here, but if ever a Parliament sit, I do not question but to have some Body else in my place.* Mr. *Swift* asked him to explain himself who he meant, says he, *Do you come to Trapan me?* and away he went.

Mr. Att. Gen. My Lord, we have now done, if the Jury please to consider of it.

Lord Chief Justice. Is there any Body here for Mr. *Otes*, to offer any thing to lessen the Damages?

(*To which No Body answered.*)

Then, Gentlemen of the Jury, your Business now is to enquire what Damages you think fit to assess to his ROYAL HIGHNESS, by reason of the speaking of the Words mentioned in the Declaration, there being in this Action Judgment by Default obtained by his ROYAL HIGHNESS; and you have nothing now to do, but only to assess to the Plaintiff such Damages as you shall think fit.

Now, Gentlemen, though the acknowledgment of this Judgment (for so it is in effect, it being by Default) be a sufficient Confession of the Words being spoken as they are laid in the Declaration, yet they have given you Proof of the very Words.

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The Declaration is in an Action grounded upon the Statute *De SCANDALIS MAGNATUM*, taking notice that His Royal Highneſs is a great Peer of this Kingdom, and His Majeſtie's only Brother; and that *Oates* the Defendant knowing him to be ſo, to bring him under Reproach and Calumny, and to cauſe Diſcord to ariſe between the King and him, and between him and other Great Men, did ſpeak the words laid in the Declaration which you have heard read, and which are theſe.

The firſt are, *This Letter* (*Oates* having a Letter in his Hand) *coſt Me Nine-pence, and might have been brought for a Penny; I know no Body is the better for it, but that Traitor* JAMES *Duke of* YORK. This is laid over again with a very little variation, *This Letter coſt Me Nine-pence, and might have been afforded for a Penny; I know no Body is the better for it, but that Traitor* JAMES *Duke of* YORK: which are words of the ſame Sound, and to the ſame purpoſe with the former; they differ only in ſome minute Circumſtances a word or ſo, but import the ſame thing.

The next words are theſe, *The Duke of* YORK *is a Traitor*; and theſe words too are laid two ſeveral ways, differing but in very ſmall Circumſtances (*Is a Traitor*, and *Was a Traitor*) the Subſtance of the words is the ſame.

Now I ſay, Gentlemen, Though it is not your Buſineſs to enquire whether or nō *Oates* ſpoke theſe words, for by letting Judgment go againſt him by Default, he doth in Law confeſs the words, but you are to enquire what Damages may be fit to be given to the Plaintiff by reaſon of theſe words; yet in as much as this Caſe is a Caſe of an extraordinary Nature, Weight and Moment, having relation to ſo great a Prince, His Royal Highneſs the King's only Brother, requires this extraordinary Solemnity, it having not been uſual heretofore, that is to have Writs of Enquiry executed at the Bar. But the Occaſion is extraordinary, ſuch as has not happened before this Age, this Corrupt Age, this Profligate Age wherein we live, and wherein common ordinary Fellows, the meer Scum and

Scoundrels of the Factious Party, have taken a Liberty to reproach and calumniate Magiſtracy and Government, and the greateſt Perſonages concerned in it, not ſparing even Majeſty it ſelf, nor Him, who is next in Degree to His Sacred Perſon, His onely Dear and Royal Brother. And therefore as the Caſe is extraordinary in its Nature, ſo ought the Example of it to be made as Publick as can be in order to ſatisfie all People what a ſort of Fellow this Defendant is, who has been ſo much adored and looked upon with an Eye of Admiration, courted with ſo wonderful an Affection, and ſo, I had almoſt ſaid, *Hoſanna'd* among People that have been Factious and Tumultuous to the Government.

Such as he, ought to be made Publick Examples of; and therefore the King's Counſel have deſired that this Cauſe might be canvaſed here at the Bar, and the Defendant as he has made himſelf Eminent for ſome particular Qualifications, might be made a Publick Example for this Offence.

Thus this Writ comes to be executed here. Now though the Words laid in this Declaration are words that do import in themſelves ſo much Scandal and Reproach, ſo much Malice and Venom, that they need no Aggravation beſides themſelves, and his ſuffering it to go by Default ſhews they are no-way to be extenuated, but are thereby acknowledged. Yet however to ſatisfie all People that deſire or have any inclination to be ſatisfied, that this Proſecution is highly reaſonable, nay abſolutely Neceſſary; they come here and give you an Account that theſe in the Declaration are but a ſmall Part of the Scandalous and Malicious words that the Defendant uſeth concerning the Plaintiff. And indeed it doth plainly appear, that the Malice of the Defendant is attended with all the moſt Unchriſtian and Uncharitable as well as Diſloyal and Diſobedient Circumſtances that any thing can be, with deſign to Traduce and Diſparage a Subject ſo Loyal, and a Perſon ſo Great and Illuſtrious as His Royal Highneſs.

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As to the first words, you have the first Witness Mr. *Smith*, and he gives you this Account, He was in a *Coffee-House* where he met the Defendant *Oates*; and the Defendant in a Vain-glorious huffing sort of manner, takes occasion though none was offer'd him by any thing spoken to him by any Body, but only on set purpose to express his Malice and Venom against the Plaintiff. He takes up a Letter that it seems came to him by the Post, and to gratifie his own malicious Inclination, and to give it vent, he Proclaims, *This Letter cost Me Nine-pence, it might have been brought or afforded for a Penny; and I know no Body is the better for it, but that Traitor* JAMES *Duke of* YORK.

So you see, Gentlemen, he takes hold of every little Occasion, if he can but happen upon an Opportunity, such as this was in an open *Coffee-House*, to reek his Malice upon His Royal Highness. And sure there can be no greater imputation of Scandal brought upon any Man than this upon the Plaintiff. That the first and greatest Subject of the King of *England*'s should be taxed with the greatest Crime in the Law, Disloyalty and Treason to his Soveraign. And so at once not only chargeth him with being Perfidious to his only Brother, against that Affection which by Nature he is obliged to pay him, and which all that know any thing, cannot but observe to have always been extraordinary; but also touches that which is much dearer to him than his Life, his Honor, by charging him with the foulest of Crimes, Treason and breach of his Allegiance, which as a Subject he owes to his Soveraign. And thus besides the Defendant's Confession by this Judgment you have the very words proved that are in the Declaration.

The next Witness is one Mr. *Whaley*, and he gives you an Account of another Passage which I cannot but take notice of by the way, to shew you what a wonderful Christian Temper this Man is endued with. Mr. *Whaley* says, That being at the Bishop of *Ely*'s House upon a Publick Festival either of *Easter* or *Whitsontide* (and he is sure it was one of those two, *Because*, says he, *I never use to receive*

ceive the Sacrament in London, *but upon one of thoſe two days; and therefore I take it upon me to ſay it was one of thoſe two days that I heard theſe words*) *Oates* having it ſeems received the Holy Sacrament at the Biſhop of *Ely*'s Chappel with Mr. *Whaley* that day. When a Body would have thought that if Mr. *Oates* would have been believed to be ſo Hearty and Pious a Proteſtant as he pretends to be, he ſhould have remember'd that he ought, according to the Proteſtant Doctrine, to have left behind him at his approach to the Altar, all Malice and Rancour, and ill Will and Hatred to every Body: But you ſee what kind of Deportment his was.

For after ſuch time as he had been at the Sacrament, he takes occaſion without any Provocation to fall foul immediately upon his Royal Highneſs, giving him the Name of *a Profligate Wretch*; and then particularly he comes to ſay, *The Duke of* YORK *was a Traitor.* This Gentleman being concerned, as every Honeſt and Loyal Man ought to be, and I hope every good Subject is, and ever will be, to hear ſo great a Prince, the King's onely Brother, ſo traduced and vilified, reproved him for it; but ſo far was he from taking the Correction due to his Extravagant Tongue in a becoming manner, that he preſently (as the Gentleman Phraſeth it) calls for his Myrmidons, two Fellows that he had along with him to come to him, upon which the Gentleman was pleaſed to ſay to him, *Nay, Good Mr.* Oates, *you need not be in ſo very much fear of your ſelf as to call for your Men, no Body here intends you any harm.* Nay certainly, Mr. *Oates* did apprehend himſelf to be ſecure from all manner of Correction, or he would never have been ſo Impudent to ſpeak ſuch words.

But you will no doubt take notice, as all Men cannot but do, of what an excellent Goſpel Spirit, what a delicate Chriſtian temper the Man is of, after the receiving the Sacrament, that very Morning to come and belch out ſuch extravagant words of Calumny and Reproach.

And it ſeems this Perſon had obtained to make ſuch a wonderful Figure in the World, that every Body was afraid

to

to ſpeak to him; for you hear what the Witneſs ſays when he came to beg the Biſhop of *Ely's* Pardon for being ſo loud and hot at his Table, the Biſhop gave him Thanks for it, and told him, *None of us dare ſpeak to him.* Such a Conſiderable Man hath he been that he might rail againſt the King, and the Duke, & the Government without Controul. He was got into ſuch a Poſt that no body durſt meddle with him, but he muſt have liberty to ſay any thing of any Body. To what an height of Corruption were we grown, that we could ſuffer ſuch a Fellow's Inſolence, at which no man living that has any ſpark of Modeſty or Loyalty left in him, but muſt Bluſh and Tremble.

Then they produce to you one Mr. *Johnſon*, who gives you an Account, that after ſome Diſcourſe between him and the Defendant *Oates*, about the Duke of YORK, he immediately told *Johnſon*, That *the* DUKE *was either to be Hanged or Baniſhed*; it ſeems he was ſo Ill a Man in his Eye, *but of the two, Hanging was the fitter for him.* So the Dr. ſheweth what a wonderful Kindneſs and Affection he has for the Duke, and what thoughts he has of his great Deſerts.

Mr. *Bowring* is the next Witneſs, and he comes and tells you, That the Dr. could not be prevailed with to Dine with the Gentlemen of the Pariſh of *Foſter-Lane*, becauſe ſome of them had dined with the Duke, which he calls *Dining with the Devil.* It ſeems he made as though he would Preach there to them, he got up into the Pulpit and took a Text, and pretended to Preach, and if he would have Preached according to the Duty of a Church of *England* Divine, he was by that to have Preached not only Obedience and Submiſſion to Authority, but Reſpect to Superiors, and Charity among all Subjects towards one another; and if he did Preach it, it was worſe in him not to Practice it. But you ſee after he had performed his painful laborious Preachment, after he had taken ſuch a wonderful deal of Pains, as no doubt he did in inſtructing his Auditors, what his Language is in anſwer to a Civil Invitation to Dinner by the Church-Wardens. *Have any of you Dined with* YORK *at the City Feaſts?* and they not anſwering,

but being ſilently amazed at the impertinent Impudence of the Queſtion, *why truly he would not Dine with thoſe that had dined with the Devil.* It ſeems his Royal Highneſs had been pleaſed to Honor ſome Societies of Loyal Men in the City of *London* with his Company at ſome Entertainments they made, and that is a great Offence to the Defendant; and as for thoſe that had received that Royal Favour from His Highneſs, he takes notice of them as ſuch whom he would neither Eat nor Drink with, for *truly they had eaten and drunk with the Devil*; but immediately the Doctor in his great Zeal and wonderful concern for the Proteſtant Religion, broke up from the Company, would neither Eat nor Drink with them, but choſe rather to Dine at a private *Braſier's* by *London-Wall*; a properer place in good truth for him, than any ſuch Converſation they offer'd him.

Then further to ſhew what mean Thoughts he had of the Plaintiff, Mr. *Fairfax* he comes and teſtifies, That there being ſome talk of a Preſentment or Indictment againſt the Duke of *YORK* by the Grand Jury here, but that meeting with a Diſappointment, he met *Oates*, and asked him, *What he would do, for*, ſays he, *now you are Non-ſuited?* that is, you have happened not to obtain the End that you deſigned, *Oh*, ſays *Oates*, *No matter for that, that is all one, we will at him next Seſſions; and for my part, I will have no more regard to him than I would to a Scavenger.* Nay, and becauſe they ſhould ſee the very utmoſt of his Malice, and the low Thoughts he had of his Royal Highneſs, as if it had not been Malicious enough to have compared him to a Scavenger of *London* or *Weſtminſter*, no, that was a Station too honorable for him in his Thoughts, but he muſt neceſſarily be compared to a Scavenger of *Kent-ſtreet*; which we all know to be one of the meaneſt, filthieſt, and moſt beggerly parts of the Town.

The next piece of Evidence is, that which is given by one Mr. *Philips*, and when he came to him, he began to have ſome Reflexions about the Houſe of Commons and the Duke; *and truly he did not doubt but he ſhould ſee him at the*

Bar

Bar of the Houſe of Commons; and it would be no Diſparagement to him to come there, for there were a great many Members there that were as good Men or better than he. And even by this Fancy of his he would fain degrade His Royal Highneſs; for in Caſe he had him in no other Conſideration but as a Peer, he ſhould know that no Peer of this Realm can be forced by any Vote or Order of the Houſe of Commons to come to their Bar. But he had a mind to take off his very Privilege of Peerage, and it would be no leſſening of his Greatneſs, ſince that Houſe had in it many Members better Men than the Duke himſelf. I preſume he meant ſome particular Friends of his own in that Houſe.

The next Man is one Mr. *Aſhlock*, and he tells you, That becauſe he would engage all People into an hatred of the Duke's Perſon, he muſt as a thing of the greateſt Conſequence in order to it, make it be believed, that the Duke had a great hand and concern in the Diſmal Fire of *London* in Sixty Six, that thereby he might make him obnoxious to the Rancour and Malice of all that ſuffered in that dreadful Calamity. And with what handſom Expreſſion he cloaths it? *He fired the City of* London, *he is the Son of a Whore, and we will have him hanged or ſent out of* England *for it, whenever a Parliament meets.*

So that here is not only a Perſonal Reflexion, and Malicious Indignity done to His Royal Highneſs, but carries in it a great Reflexion upon His Sacred Majeſty himſelf in his Relations, and he is not contented only to belch out his Venom and Malice againſt thoſe that are alive, but even againſt thoſe that are Dead too. For you ſee it is a moſt foul Imputation and Slander againſt Her late Majeſty the Queen Mother to our Soveraign and His Brother, by calling him the *Son of a Whore*; which is an Expreſſion of that Impudent and Inſolent Nature, as is not fit to be mentioned in a Civil Government.

Theſe

These things I think my self obliged to take Notice of for Example's sake, and to induce all People to consider to what a height of Corruption we were grown when such Scoundrel Fellows as this dare to take such base words into his Mouth, of the Royal Family.

Then comes Captain *Cressett*, and he gives you an Account, That when His Royal Highness and the Dutchess were going last to *Scotland*, as the Captain return'd from the Duke's Lodgings, he met with the Defendant, who fell upon him, *What, you have been with JAMES?* it seems he was one of his intimate Acquaintance, and very Familiar he was with his Name. Indeed a Man would have thought, if in Case he had spoke as one man ought to speak of another, that he had been speaking of one of his Myrmidons, and it would have been a very hard matter to have known who else he meant by that familiar Appellation. Says the Captain, *What* James? *Why* YORK; and he was very kind that he gave him that Addition to let him know what *JAMES* he meant; But when the Captain chid him, and told him, *Sure you might either say the Duke of* York, *or His Royal Highness*, then immediately instead of that, he flies out, *He is a Papist, he is a Traitor, and I hope to live to see him Hanged, and you will go near to lose your Reputation if you go so often thither.*

So that I perceive, if he will not be advised by this Gentleman, he should lose all his Credit; and yet I presume it is wonderfully for the Advantage of Mr. *Cressett* to lose the Credit he could get by any Characters or Commendations such an one as he could give him.

Then Captain *Cressett* kindly advised him to take Care of injuring his Party by his Passion, and his Indecent Behaviour, and told him, it would turn to his Prejudice at last. And truly now I think, if all his

Party

Party were in his Condition, and made to ſmart for the Laviſhneſs of their Tongues, I think it were a good Accompliſhment of his Prophecy, and if we were rid of them, we ſhould be more at Peace. And we may without offence hope to ſee that ſooner, than what the Defendant ſays he hoped to ſee.

The next is Sir *William Jennings*, who tells you of a Paſſage at the Parliament at *Oxford*, which ſhews his wonderful Goſpel and Chriſtian temper. When a Company of Gentlemen were met together to Drink a Glaſs of Wine, and were wiſhing Health and Long Life to His Sacred Majeſty, His Royal Highneſs, and the Royal Family, he would not be contented to refuſe the Glaſs, but to ſhew how wonderful a Chriſtian Spirit he was of, and to evidence his true Proteſtant Charity (and by his Carriage who was one of the Heads of the Faction, we may gueſs at the Temper of all the Party) he cries out, *He has ruined the Nation, and if there be any hotter place in Hell than other, I hope the Devil will preſerve it for him.*

I preſume his great Converſation with him he ſpoke of, hath given him ſome Intelligence there is in Hell ſome hotter places than others, and who they are reſerved for. But Gentlemen, I ſpeak not this that I think any thing that is thus proved by the by, doth in the leaſt aggravate the Damages, for the Words in the Declaration are as bad as bad can be; but to let you ſee the diſpoſition of this Man that has been ſo much admired and courted.

After him comes Mr. *Warcup*, who tells you, he was not in the Room with *Oates* when the laſt words were ſpoken, but coming in immediately after, they all told him the ſame words, and he afterwards meeting with *Oates*, and reproving him for his indecent Behaviour and Expreſſion, inſtead of any remorſe or concern that he had upon him, by reaſon of his having ſpoken ſuch

words, he doth ſtill add to it, *The* DUKE *of* YORK *is a Traitor, he is in the Plot; and becauſe you take his part you are a* Yorkiſt, *and we will be even with you for it at one time or another.* So he threatens him only for asking him why he behaved himſelf in ſuch an indecent manner towards His Royal Highneſs.

The laſt Witneſs Mr. *Chapman*, is produced to ſhew what Mind he continues in. After all this is paſt, and a body would have thought he might by this time have been brought to ſome Conſideration and Submiſſion to Authority; yet you ſee how the Man is. The Witneſs tells you ſince the beginning of this Term, the Declaration being delivered and by the Courſe of the Court he ought to Plead within ſuch a time, the Attorney goeth to him for a Plea in order to make his Defence if he could in the Action now before you, but he lets Judgment go by Default; and ſo far is he from repenting of what he had formerly done, that he perſiſts in it, and tells him, *Are you the DUKE's Attorney?* Yes. *Well, I care not a farthing for the DUKE nor his Attorney neither; it may be I may be in here for* 100000 *l.* (and that I believe is one of the trueſt things he ever ſpoke in his Life) *but ſuppoſe I be, I do not doubt but when a Parliament meets a time will come when ſome other People may come in my place.* But truly ſince he has declared his Hopes, I think it may not be amiſs for us to declare ours too; and for my part, to ſay I hope I ſhall never ſee ſuch a Parliament.

Mr. *Under-Sheriff.* Lay your Heads together Gentlemen, and conſider of your Verdict.

They did ſo ſtanding at the Bar.

Mr. *Under-Sheriff.* Are you all agreed of your Verdict?

Omnes. Yes.

Mr.

Mr. *Under-Sheriff.* Who ſhall ſay for you?

Omnes. Foreman.

Mr. *Under-Sheriff.* What Damages do you find?

Sir *Charles Lee.* Full Damages, an Hundred Thouſand Pounds.

Mr. *Under-Sheriff.* What Coſts?

Sir *Charles Lee.* Twenty Shillings.

Which Verdict being Recorded in an Inquiſition indented, taken under the Hands of all the Jury, was afterwards annexed as the Return to the Writ of Inquiry.

FINIS.